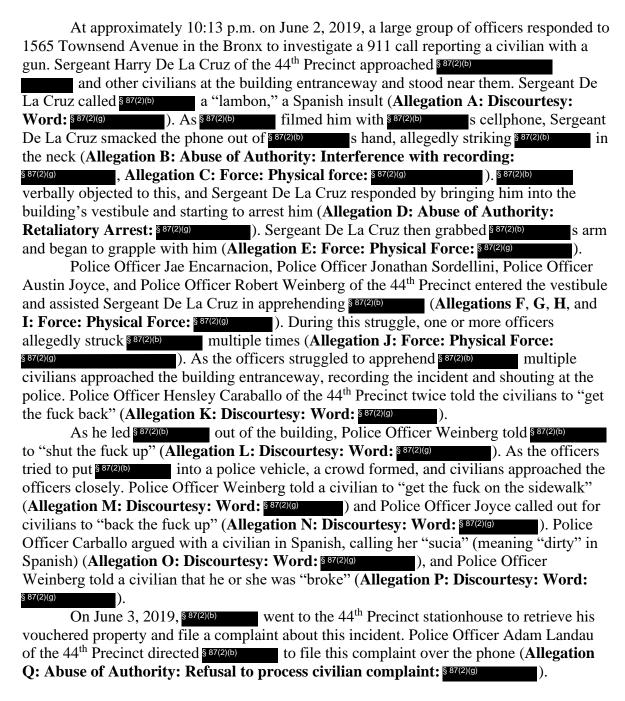
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	☑ Discourt.	☐ U.S.
Matthew Chaves		Squad #7	201904816	☑ Abuse	O.L.	✓ Injury
Incident Date(s)		Location of Incident:	-	Precinct:	18 Mo. SOL	EO SOL
Sunday, 06/02/2019 10:13 PM, Monday, 06/03/2019 6:43 PM		1565 Townsend Avenue, 44th Precinct stationhouse		44	12/2/2020	7/19/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Date/Time	e Received at CCI	RB
Tue, 06/04/2019 12:00 AM		Precinct	In-person	Tue, 06/04	4/2019 1:14 PM	
Complainant/Victim	Type	Home Addre	ess			
Witness (ex)		Home Addm				
Witness(es)		Home Addre	ess			_
Subject Officer(s)	Shield	TaxID	Command			
	Silieiu	TaxiD	Command			
1. Officers	00580	0.41272	044 DCT			
2. SGT Harry Delacruz3. POM Jae Encarnacion		941272	044 PCT			
	15713	963973	044 PCT			
4. POM Hensley Caraballo	21957	962970	MTS PCT			
5. POM Jonathan Sordellini	12339	962815	044 PCT			
6. POM Robert Weinberg	30593 03480	965614	044 PCT 044 PCT			
7. POM Austin Joyce8. POM Adam Landau	18079	964578 932879	044 PCT			
o. I OW Adam Landau	10077	732017	044161			
Officer(s)	Allegati	on		Inve	estigator Recon	nmendation
A.SGT Harry Delacruz		tesy: At 1565 Townsend t Harry Delacruz spoke d				
B.SGT Harry Delacruz	Harry D	At 1565 Townsend Aven elacruz interfered with generated device.		_		
C.SGT Harry Delacruz		at 1565 Townsend Avenuelacruz used physical for		geant		
D.SGT Harry Delacruz		At 1565 Townsend Aven elacruz arrested ^{§ 87(2)(b)}	ue in the Bronx, Ser	geant		
E.SGT Harry Delacruz		at 1565 Townsend Avenu elacruz used physical for		geant		
F.POM Jae Encarnacion		at 1565 Townsend Avenu Jae Encarnacion used phy				

Officer(s)	Allegation	Investigator Recommendation
G.POM Jonathan Sordellini	Force: At 1565 Townsend Avenue in the Bronx, Police Officer Jonathan Sordellini used physical force against \$87(2)(b)	
H.POM Austin Joyce	Force: At 1565 Townsend Avenue in the Bronx, Police Officer Austin Joyce used physical force against \$87(2)(5)	
I.POM Robert Weinberg	Force: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg used physical force against \$87(2)(b)	
J. Officers	Force: At 1565 Townsend Avenue in the Bronx, officers used physical force against § 87(2)(b)	
K.POM Hensley Caraballo	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Hensley Caraballo spoke discourteously to individuals.	
L.POM Robert Weinberg	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg spoke discourteously to \$87(2)(b)	
M.POM Robert Weinberg	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg spoke discourteously to an individual.	
N.POM Austin Joyce	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Austin Joyce spoke discourteously to an individual.	
O.POM Hensley Caraballo	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Hensley Caraballo spoke discourteously to an individual.	
P.POM Robert Weinberg	Discourtesy: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg spoke discourteously to an individual.	
Q.POM Adam Landau	Abuse: At the 44th Precinct stationhouse in the Bronx, Police Officer Adam Landau did not process scomplaint regarding officers.	

Case Summary

On June 4, 2019, [887(2)(b)] filed the following complaint at the 40th Precinct stationhouse. The CCRB received it from the NYPD the same day.



The investigation obtained cellphone video of this incident from [887(2)(5)]
(Board Review 01), BWC videos from Police Officer Caraballo (Board Review 02),
Police Officer Encarnacion (Board Review 03), Police Officer Sordellini (Board Review 04), Sergeant De La Cruz (Board Review 05), Police Officer Joyce (Board Review 06),
and Police Officer Weinberg (Board Review 07), and surveillance video from within the

Findings and Recommendations

Allegation A – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Sergeant Harry Delacruz spoke discourteously to \$87(2)(b) Allegation B – Abuse of Authority: Interference with recording: At 1565 Townsend Avenue in the Bronx, Sergeant Harry Delacruz interfered with § 87(2)(b) recording device. Allegation C – Force: Physical force: At 1565 Townsend Avenue in the Bronx, Sergeant Harry Delacruz used physical force against §87(2)(b) provided a telephone statement on June 5, 2019 (**Board Review 09**) and a sworn statement at the CCRB on June 13, 2019 (Board Review 10). Sergeant De La Cruz was interviewed on February 7, 2020 (Board Review 11). Police Officer Caraballo and Police Officer Weinberg were interviewed on March 12, 2020 (Board Review 12, **Board Review 13).** In their interviews, the involved officers all stated that they responded to the incident location based on a 911 call reporting a gun, and the investigation obtained 911 records confirming this (Board Review 14 and 15). In his sworn statement, §87(2)(b) explained that in the lead-up to this incident, he lent his cellphone to \$87(2)(b) as \$87(2)(b) s own phone's battery had died. and a few other civilians then stood in front of the main entrance to 1565 Townsend Avenue. The building entrance consisted of an unlocked exterior door, a small vestibule, and then an interior, locked door. When officers began arriving, two of them approached the entranceway but were unable to enter because of the locked interior door. held the exterior door open for the officers and suggested that they ring the doorbell for the specific apartment they were trying to reach. Then, Sergeant De La Cruz approached and called § 87(2)(b) a "lambon" (a Spanish word translated variously as "brown nose," "kiss-ass," or "dick rider"). Sergeant De La Cruz then used a closed fist to punch the phone out of \$87(2)(b) shand. \$87(2)(b) was standing right next to \$100. at this point, and Sergeant De La Cruz's punching motion continued and hit § 87(2)(b) in the left cheek. In his interview, Sergeant De La Cruz described himself to the CCRB as Dominican and as a Spanish speaker. He stated that as he approached the building entrance, called him a "lambon," which Sergeant De La Cruz translated as meaning "kissass" in Spanish. Sergeant De La Cruz did not recall whether he ever called §87(2)(b) "lambon." Sergeant De La Cruz stated that \$87(2)(b) insulting him "was neither here nor there" and had no impact on this situation, as he was focused on locating the reported firearm. At this point in the incident, Sergeant De La Cruz had zero suspicion that § 87(2)(b) was committing a crime. passed §87(2)(b) an object from hand to hand, but Sergeant De La Cruz could not recall the height at which this transfer occurred (i.e. waist, chest, or head level). Sergeant De La Cruz could not observe any features or characteristics of the object and did not know what it was at this point. §87(2)(6) raised this object toward Sergeant De La Cruz's face, holding the object up with his elbow bent. Sergeant De La Cruz struggled to describe the object's speed as it approached his face but was confident that it

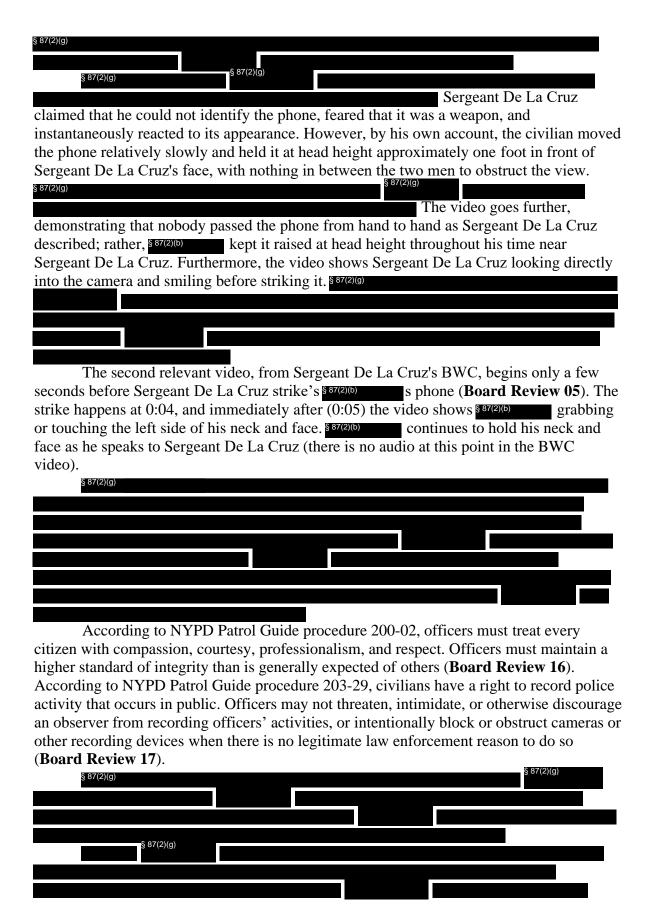
was slower than a punch. Sergeant De La Cruz could see \$87(2)(6) clearly as this happened as there was nothing between the two men. As the object approached Sergeant De La Cruz's face, he could not tell what it was. After raising it, \$87(2)(6) held the object approximately one foot from Sergeant De La Cruz's face.

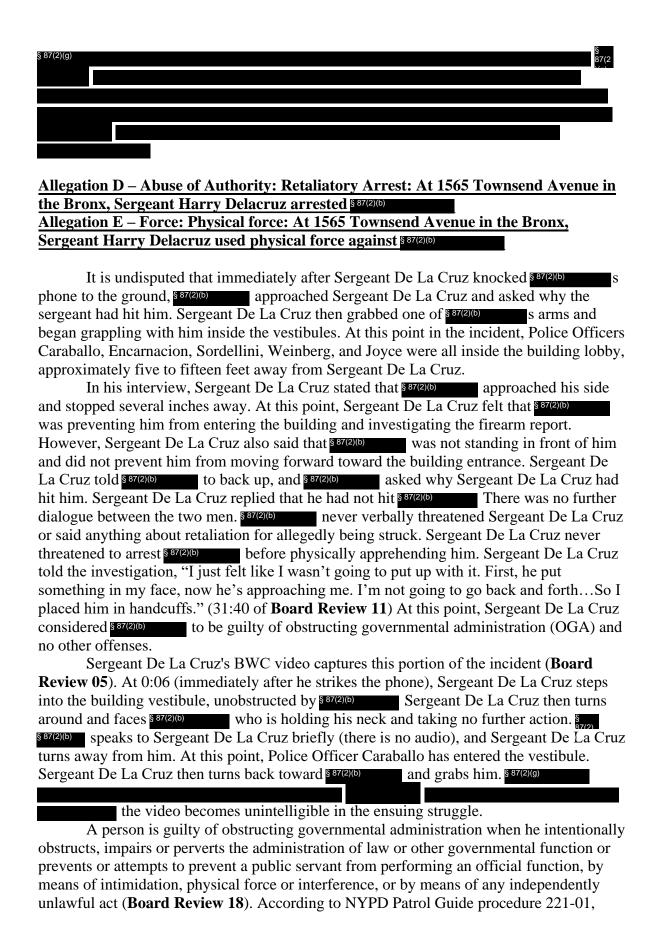
Sergeant De La Cruz instantly reacted to the object's presence by striking it away from his face because he was concerned it was a weapon. As he struck the object, he did not intend to strike anyone's body. He was not aware of striking anyone's body while striking the object, including striking \$87(2)(b) in the face or neck

The first relevant video is the one that \$\frac{87(2)(6)}{2}\$ filmed with \$\frac{87(2)(6)}{2}\$ s phone as officers arrived on-scene (**Board Review 01**). At 0:03, Police Officer Caraballo and Police Officer Sordellini walk behind \$\frac{87(2)(6)}{2}\$ and an unidentified civilian as they head towards the building entrance. From 0:04 to 0:06, the video shows that at least one other officer is already standing near the building entrance, and the exterior door is completely open. An indistinct figure is partially visible behind the officer, and at 0:05 a block of bright yellow is visible to the left of that officer's leg. That yellow is not the officer's holstered Taser, which is a separate and distinct yellow shape on the officer's right hip. \$\frac{87(2)(6)}{2}\$ was undisputedly wearing a black t-shirt and bright yellow athletic shorts during this incident (see 0:32 of this same video for reference), \$\frac{87(2)(6)}{2}\$

The video continues, with \$87(2)(5) switching from the front-facing ("selfie") camera to the rear-facing camera at 0:27 (note that this switch may cause errors in video playback, with the viewer needing to manually place the video at 0:27 and then press "play"). The video shows Sergeant De La Cruz walk up to \$87(2)(5) and stop next to him, directly in front of the open exterior door. Unknown civilians call out "cocolito" (a Spanish word referring to a person with dark skin), that Sergeant De La Cruz "lambea a policia" (meaning that the sergeant "sucks up to" the police department) and "mamaguevos" ("cocksucker"). The video quality and number of involved people make it impossible to hear if or how Sergeant De La Cruz responded to these comments. At 0:30, \$87(2)(5) says," estoy grabando" ("I'm recording"). At 0:32, as \$87(2)(5) stops directly to Sergeant De La Cruz's right, \$87(2)(5) tells Sergeant De La Cruz "El lambon eres tu, papa" ("You are the lambon"). Sergeant De La Cruz repeats the word "lambon," looks up from the two smartphones he is using, turns toward the camera, and smiles briefly. There is then a rapid, indistinct motion, the sound of an impact, and the camera falls to the ground face up. \$87(2)(5)

There is then a brief unintelligible section, followed by \$87(2)(b) telling Sergeant De La Cruz "You are the lambon." \$87(2)(g)





force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 19**).



Allegation F – Force: Physical Force: At 1565 Townsend Avenue in the Bronx, Police Officer Jae Encarnacion used physical force against \$87(2)(6)

Allegation G – Force: Physical Force: At 1565 Townsend Avenue in the Bronx, Police Officer Jonathan Sordellini used physical force against [887(2)(6)]

Allegation H – Force: Physical force: At 1565 Townsend Avenue in the Bronx, Police Officer Austin Joyce used physical force against § 87(2)(b)

Allegation I – Force: Physical Force: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg used physical force against § 87(2)(6)

Allegation J – Force: Physical Force: At 1565 Townsend Avenue in the Bronx, officers used physical force against §87(2)(b)

Allegation K – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police Officer Hensley Caraballo spoke discourteously to individuals.

It is undisputed and captured on all the involved officers' BWC videos (albeit chaotically) that [87(2)(b)] resisted arrest. As Sergeant De La Cruz struggled with Police Officers Encarnacion, Sordellini, Joyce, and Weinberg became aware of the conflict (but not its origins) and rushed into the vestibule. After fighting for approximately one minute, the officers handcuffed \$87(2)(b) and brought him to his feet. As the officers fought with \$87(2)(b) other civilians approached the vestibule and shouted at them. Police Officer Caraballo told these civilians to "get the fuck back" twice (0:50 of **Board Review 02**). In his interview, Police Officer Caraballo explained that there were multiple civilians outside the vestibule trying to enter, that he was the only officer standing between them and the ongoing arrest, and that he needed to protect the officers behind him. In his telephone and sworn statements, \$87(2)(b) alleged that an officer(s) struck him multiple times as he lay face down on the vestibule floor. Because of his position and the chaos of the fight, \$87(2)(b) could not specify or describe which officers struck him. In their interviews, the involved officers all either denied striking \$87(2)(b) to recall the fight in any detail. The available BWC videos do not clearly show any officer striking §87(2)(b) but are, collectively, too chaotic and inconsistent to demonstrate that the alleged strikes did not happen. According to NYPD Patrol Guide procedure 221-01, force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances (Board Review 19). According to DAO-DCT Case Number 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused during a violent confrontation (Board Review 20). § 87(2)(g) Allegation L – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg spoke discourteously to §87(2)(b) Allegation M – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police Officer Robert Weinberg spoke discourteously to an individual. Allegation N – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police Officer Austin Joyce spoke discourteously to an individual.

Allegation O – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police

Officer Hensley Caraballo spoke discourteously to an individual.

Allegation P – Discourtesy: Word: At 1565 Townsend Avenue in the Bronx, Police
Officer Robert Weinberg spoke discourteously to an individual.

It is undisputed and captured on the involved officers' BWC videos that once was in handcuffs, the officers escorted him out of the vestibule and towards their police vehicles parked on Townsend Avenue. Police Officer Weinberg physically guided and told him to "shut the fuck up" as \$\frac{87(2)(0)}{2}\$ called out to other civilians (1:25 of Police Officer Caraballo's BWC video, **Board Review 02**). In his interview, Police Officer Weinberg initially did not recall cursing at \$\frac{87(2)(0)}{2}\$ When shown video of the profanity, Police Officer Weinberg said he did not recall why he said it.

As the officers reached a police SUV and began to place [87(2)(0)] inside, they realized that someone had slashed one of the SUV's tires. The officers changed course, leading [87(2)(0)] towards another police vehicle, but were approached by civilians who broke off from the crowd in front of 1565 Townsend Avenue and stepped into the street. A male civilian approached [87(2)(0)] and Police Officer Weinberg closely, and Police Officer Weinberg told him to "get the fuck on the sidewalk" (1:55 of Police Officer Weinberg watched this video and said that the male civilian made him uncomfortable by approaching so closely and obstructing the arrest. He also said that it was illegal for the civilian to step into the street.

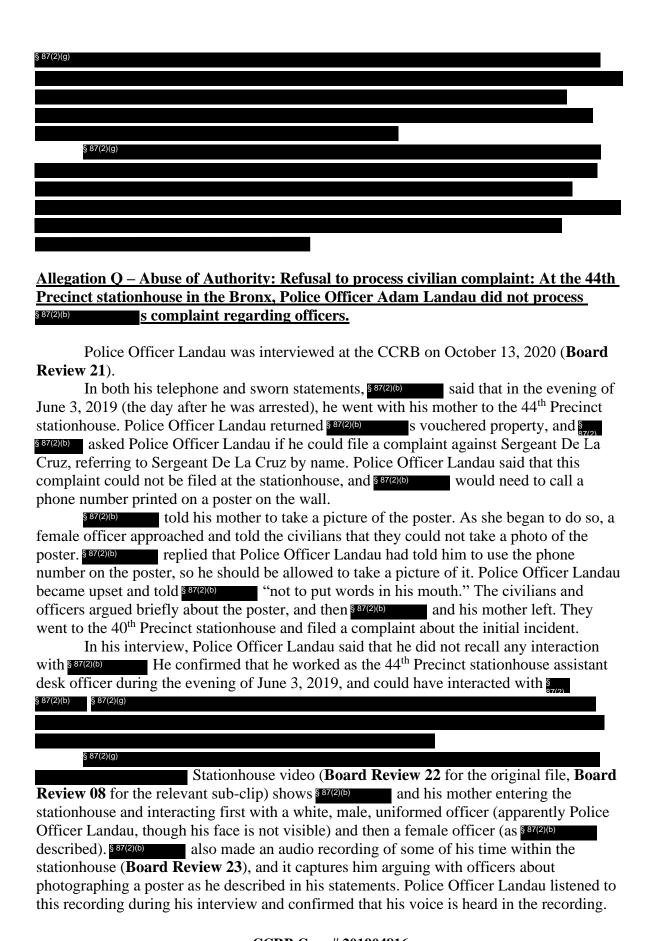
At approximately the same point in the incident, Police Officer Joyce repeatedly told a civilian to "back the fuck up". As seen at 1:20 in Police Officer Joyce's BWC video (**Board Review 06**), a group of civilians were standing near the sidewalk edge, and one of them closely approached Police Officer Joyce. As the camera turns toward the street, other officers are visible standing outside the damaged SUV with [\$87(2)(6)]

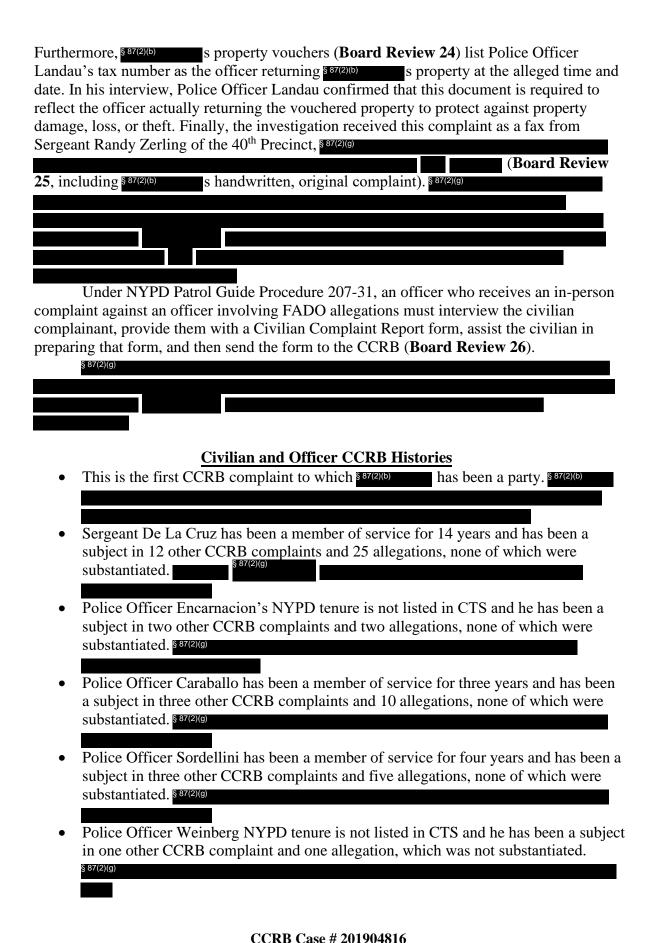
Shortly after this, Police Officer Caraballo approached the crowd on the sidewalk. Starting at 3:52 in his BWC video (**Board Review 02**), Police Officer Caraballo called out in Spanish to a woman nearby. In his interview, Police Officer Caraballo explained that this woman had accused him of touching her. He told her that no one, including him, touched her, and called her "sucia" meaning "dirty" in Spanish. Police Officer Caraballo explained to the investigation that he meant the civilian was dirty in the sense that she needed to shower and was physically unclean. Police Officer Caraballo did not mean that she was dirty in any legal sense or suspect her of any criminality.

Eventually, Police Officer Weinberg escorted solution to a functional police vehicle and put him inside. An unknown civilian then called out "You're a rookie-ass nigger," to which Police Officer Weinberg replied, "Yeah and you're broke" (3:22 of **Board Review 07**). In his interview, Police Officer Weinberg confirmed he said this but did not remember to whom or why he said it.

According to NYPD Patrol Guide procedure 200-02, officers must treat every citizen with compassion, courtesy, professionalism, and respect. Officers must maintain a higher standard of integrity than is generally expected of others (**Board Review 16**). According to DAO-DCT Case Number 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused during a violent confrontation (**Board Review 20**).

§ 87(2)(g)





§ 87(2)(g)			
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	tiated. § 87(2)(9)	implaints and four allegations, nor	ie of which were
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	Mediation	, Civil and Criminal Histories	
• This co	mplaint was unsuitable	for mediation.	
• On Janu	uary 5, 2021, New Yor	k City Comptroller's Officer prov	rided a copy of a
Notice	of Claim filed on § 87(2)(b)	s behalf regarding this inc	ident. According
the Cla	im, § 87(2)(b) alleges	s assault and battery leading to mu	ıltiple injuries,
neglige	nce, civil rights violation	ons, and failure to properly train a	and discipline po
- cc:	The Claim requests to	wo million dollars in damages (Bo	nard Review 28
officers	. The Claim requests to	wo militon donars in damages (b	Juliu Ite ile ii Zo
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• §87(2)(6) and No.: 7 estigator:	Matt Chaves	SI Matt Chaves Print Title & Name	02/10/202 Date
• §87(2)(6) and No.: 7 estigator:	Matt Chaves Signature	SI Matt Chaves Print Title & Name Manager Vanessa Rosen	02/10/202 Date 2/20/2021
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